



# MONTANA DEPARTMENT OF TRANSPORTATION INVITATION FOR BID (IFB) (THIS IS NOT AN ORDER)

**IFB Number:**  
HWY-309510-KS

**IFB Title:**  
REFLECTIVE GLASS BEADS

**IFB Due Date and Time:**  
March 29, 2010  
3:00 p.m., Local Time

**Number of Pages:** 1 of 19

## ISSUING AGENCY INFORMATION

**Procurement Officer:**  
Kim Stewart

**Issue Date:**  
March 8, 2010

**MONTANA DEPARTMENT OF TRANSPORTATION  
PURCHASING SERVICES BUREAU  
2701 PROSPECT AVE  
PO BOX 201001  
HELENA MT 59620-1001**

**Phone: (406) 444-9282  
Fax: (406) 444-5411  
TTY Users, (406) 444-7696**

**Website: <http://gsd.mt.gov/>**

## INSTRUCTIONS TO BIDDERS

**COMPLETE THE INFORMATION BELOW AND  
RETURN THIS PAGE WITH YOUR BID AND ANY  
REQUIRED DOCUMENTS TO THE ADDRESS  
LISTED ABOVE UNDER "ISSUING AGENCY  
INFORMATION."**

**Mark Face of Envelope/Package:**

**IFB Number: HWY-309510-KS  
IFB Due Date: March 29, 2010**

**SEALED BIDS** will be received and publicly opened  
in the Administrative Division at 3:00 pm.

**Attachments: NONE**

## BIDDERS MUST COMPLETE THE FOLLOWING

**Federal Tax ID Number:**

**Delivery Date:**

**Bidder Name/Address:**

**Authorized Bidder Signatory:**

(Please print name and sign in ink)

**Bidder Phone Number:**

**Bidder FAX Number:**

**Bidder E-mail Address:**

**IMPORTANT: SEE STANDARD TERMS AND CONDITIONS**

HIGHWAY CIVIL RIGHTS

The Contractor must, in performance of work on this contract, fully comply with all applicable federal, state or local laws, rules and regulations. The Contractor must comply with the provisions of all appropriate federal laws, including Title VI of the Civil Rights Act of 1964. Any subletting or subcontracting by the Contractor subjects subcontractors to the same provisions of the appropriate federal laws, including Title VI of the Federal Civil Rights Act of 1964. In accordance with 49-3-207, MCA, the Contractor agrees that the hiring of persons to perform work on this contract will be made on the basis of merit and qualifications and that there will be no discrimination on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disabilities or national origin by the persons performing the contract.

BILL TO: DEPT OF TRANSPORTATION  
VARIOUS LOCATIONS  
AS LISTED HEREIN

F.O.B. ADDRESS: DEPT OF TRANSPORTATION  
VARIOUS LOCATIONS  
AS LISTED HEREIN

Questions may be directed to Tom Roberts at (406) 444-6035 in Helena. However, any changes to the requirements of the Invitation for Bid (IFB) can only be made by the Montana Department of Transportation (Department) in writing, and claimed oral modifications are not valid or binding.

## 1.0. FEDERAL AID REQUIREMENTS

Some of the product purchased from the resulting contract of this Invitation for Bid **may** be purchased with Federal Aid Funds. Therefore, the following provisions will apply to the Invitation for Bid and to the resulting contract.

### A. MONTANA PREFERENCES

Since Federal Aid Funds will be utilized to pay for this project, the Montana bid preferences will not apply.

### B. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, Contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, the following notice shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project.

### C. NOTICE TO ALL PERSONNEL ENGAGED ON FEDERAL-AID HIGHWAY PROJECTS

18 U.S.C. 1020 reads as follows:

*"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or*

*Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or*

*Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;*

*Shall be fined not more than \$10,000 or imprisoned not more than 5 years or both."*

**D. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION**

1. Instructions for Certification - Primary Covered Transactions:

(Applicable to all Federal-aid contracts - 49 CFR 29)

- a. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
- b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the Department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.
- c. The certification in this clause is a material representation of fact upon which reliance was placed when the Department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department or agency may terminate this transaction for cause of default.
- d. The prospective primary participant shall provide immediate written notice to the Department or agency to whom this proposal is submitted if any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- e. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the Department or agency to which this proposal is submitted for assistance in obtaining a copy of those regulations.
- f. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Department or agency entering into this transaction.

- g. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the Department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the nonprocurement portion of the "Lists of Parties Excluded From Federal Procurement or Nonprocurement Programs" (Nonprocurement List) which is compiled by the General Services Administration.
- i. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- j. Except for transactions authorized under paragraph f of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the Department or agency may terminate this transaction for cause or default.

**E. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION--PRIMARY COVERED TRANSACTIONS**

- 1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
  - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;
  - b. Have not within a 3-year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1b of this certification; and
  - d. Have not within a 3-year period preceding this application/ proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- 2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

## **F. INSTRUCTIONS FOR CERTIFICATION - LOWER TIER COVERED TRANSACTIONS**

(Applicable to all subcontracts, purchase orders and other lower tier transactions of \$25,000 or more - 49 CFR 29)

- a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.
- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.
- d. The terms "covered transaction," "debarred," "suspended," "ineligible," "primary covered transaction," "participant," "person," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
- e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Department or agency with which this transaction originated.
- f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
- h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the Department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**G. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION--LOWER TIER COVERED TRANSACTIONS**

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal Department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

\* \* \* \* \*

**H. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING**

(Applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 - 49 CFR 20)

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:
  - a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
  - b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
3. The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

**2.0. STANDARD TERMS AND CONDITIONS**

By submitting a response to this invitation for bid, request for proposal, or acceptance of a contract, the vendor agrees to acceptance of the following Standard Terms and Conditions and any other provisions that are specific to this solicitation or contract.

## **2.1. ACCEPTANCE/REJECTION OF BIDS OR PROPOSALS**

The Department reserves the right to accept or reject any or all bids or proposals, wholly or in part, and to make awards in any manner deemed in the best interest of the Department. Bids, proposals will be firm for 30 days, unless stated otherwise in the text of the invitation for bid, request for proposal.

## **2.2. ACCESS AND RETENTION OF RECORDS**

The Contractor agrees to provide the Department, Legislative Auditor, or their authorized agents, access to any records necessary to determine contract compliance (Mont. Code Ann. § 18-1-118). The Contractor agrees to create and retain records supporting the services rendered or supplies delivered for a period of three years after either the completion date of the contract or the conclusion of any claim, litigation or exception relating to the contract taken by the State of Montana or third party.

## **2.3. ALTERATION OF SOLICITATION DOCUMENT**

In the event of inconsistencies or contradictions between language contained in the Department's solicitation document and a vendor's response, the language contained in the Department's original solicitation document will prevail. Intentional manipulation and/or alteration of solicitation document language will result in the vendor's disqualification and possible debarment.

## **2.4. ANTITRUST ASSIGNMENT CLAUSE**

All vendors, Contractors and subcontractors hereby assign to the State of Montana any and all claims or causes of action for any antitrust law violations or damages arising therefrom as to goods, materials and services purchased under the terms of this agreement and any change order that may result from this agreement. This assignment is made on behalf of the vendor, Contractor and all subcontractors, which may be hired or contracted with to furnish goods, materials or services.

## **2.5. ASSIGNMENT, TRANSFER AND SUBCONTRACTING**

The Contractor shall not assign, transfer or subcontract any portion of the contract without the express written consent of the Department. (Mont. Code Ann. § 18-4-141.)

## **2.6. AUTHORITY**

The following bid, request for proposal, limited solicitation, or contract is issued in accordance with Title 18, Montana Code Annotated, and the Administrative Rules of Montana, Title 2, chapter 5.

## **2.7. BILLING**

The State of Montana cannot pay for materials or services in advance. All billing against this purchase order must be made only after completion of receipt of merchandise or services rendered.

## **2.8. COLLUSION PROHIBITED**

Prices quoted shall be established without collusion with other Contractors and without attempt to preclude the Department from obtaining the lowest possible competitive price.

## **2.9. COMPLIANCE WITH LAWS**

The Contractor must, in performance of work under the contract, fully comply with all applicable federal, state, or local laws, rules and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or subcontracting by the Contractor subjects subcontractors to the same provision. In accordance with section 49-3-207, MCA, the Contractor agrees that the hiring of persons to perform the contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas,

sex, age, marital status, physical or mental disability, or national origin by the persons performing the contract.

## **2.10. CONFORMANCE WITH CONTRACT**

No alteration of the terms, conditions, delivery, price, quality, quantities or specifications of the contract shall be granted without prior written consent of the Department of Transportation Purchasing Bureau. Supplies delivered which do not conform to the contract terms, conditions and specifications may be rejected and returned at the Contractor's expense.

## **2.11. DISABILITY ACCOMMODATIONS**

The State of Montana does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. Individuals, who need aids, alternative document formats or services for effective communications or other disability-related accommodations in the programs and services offered are invited to make their needs and preferences known to this office. Interested parties should provide as much advance notice as possible.

## **2.12. EXCEPTIONS**

A prospective Contractor may take "exception" to bid terms, conditions, specifications and dates stated within the bid package. However, the Department reserves the right to disqualify any and all bids submitted which include exceptions, if deemed not in the Department's best interest.

## **2.13. FACSIMILE RESPONSES**

Facsimile bids sent directly to the Department of Transportation will not be accepted; however, facsimile bids sent to a 3rd party and then delivered to the Department in a properly addressed, sealed envelope will be accepted.

## **2.14. FAILURE TO HONOR BID/PROPOSAL**

If a bidder/Contractor to whom a contract is awarded refuses to accept the award (PO/contract) or, fails to deliver in accordance with the contract terms and conditions, the Department may, in its discretion, suspend the bidder/Contractor for a period of time from entering into any contracts with the State of Montana.

## **2.15. FORCE MAJEURE**

Neither party shall be responsible for failure to fulfill its obligations due to causes beyond its reasonable control, including without limitation, acts or omissions of government or military authority, acts of God, materials shortages, transportation delays, fires, floods, labor disturbances, riots, wars, terrorist acts or any other causes, directly or indirectly beyond the reasonable control of the non-performing party, so long as such party is using its best efforts to remedy such failure or delays.

## **2.16. HOLD HARMLESS/INDEMNIFICATION**

Contractor agrees to defend, protect, indemnify and save harmless the State of Montana and Department against and from all claims, liabilities, demands, causes of action, judgments (including costs and reasonable attorneys fees), and losses to them from any cause whatever (including patent, trademark and copyright infringements) from the Agreement and its execution. This includes any suits, claims, actions, losses, costs or damages of any kind, including the State's and Department's legal expenses, arising out of, in connection with, or incidental to the Agreement, but does not include any such suits, claims, actions, losses, costs or damages which are solely the result of the negligent acts, omissions or misconduct of Department's employees if they do not arise out of, depend upon or relate to a negligent act, omission or misconduct of Contractor's employees. The Contractor assumes all responsibility for ensuring and enforcing safe working conditions and compliance with all safety-related rules and regulations for the benefit of its own employees, the employees of any subcontractor, and the



public. That responsibility includes all duties relating to safety, regardless of whether any such duties are, or are alleged to be, "nondelegable" (e.g., the Montana Safe Place to Work Statute, etc.). This indemnification is expressly intended by the parties to include any claims, liabilities, demands, causes of action, judgments (including costs and reasonable attorneys fees), and losses that are, or are alleged or held to be, based upon a breach by the Department of a nondelegable duty relating to workplace safety for the Contractor's employees, the employees of any subcontractor, and the public.

## **2.17. LATE BIDS AND PROPOSALS**

Regardless of cause, late bids and proposals will not be accepted and will automatically be disqualified from further consideration. It shall be solely the vendor's risk to assure delivery at the designated office by the designated time. Late bids and proposals will not be opened and may be returned to the vendor at the expense of the vendor or destroyed if requested.

## **2.18. PAYMENT TERM**

All payment terms will be computed from the date of delivery of supplies or services OR receipt of a properly executed invoice, whichever is later. Unless otherwise noted in the solicitation document, the Department is allowed 30 days to pay such invoices. All Contractors may be required to provide banking information at the time of contract execution in order to facilitate state electronic funds transfer payments.

## **2.19. PREPARATION OF BIDS**

Bids must be written in ink and/or typewritten on bid forms furnished herewith. Erasures and alterations must be initialed by the Contractor in ink. Verbal bids will not be accepted. Facsimile bids sent directly to the Department will not be accepted; however, facsimile bids sent to a third party and then delivered to the Department in a properly addressed, sealed envelope will be accepted. Bid quotations shall be considered firm for 30 days after the date of opening unless otherwise stated in writing within the bid package.

## **2.20. REFERENCE TO CONTRACT**

The contract or purchase order number MUST appear on all invoices, packing lists, packages and correspondence pertaining to the contract.

## **2.21. REGISTRATION WITH THE SECRETARY OF STATE**

Any business intending to transact business in Montana must register with the Secretary of State. Businesses that are incorporated in another state or country, but which are conducting activity in Montana, must determine whether they are transacting business in Montana in accordance with sections 35-1-1026 and 35-8-1001, MCA. Such businesses may want to obtain the guidance of their attorney or accountant to determine whether their activity is considered transacting business. If businesses determine that they are transacting business in Montana, they must register with the Secretary of State and obtain a certificate of authority to demonstrate that they are in good standing in Montana. To obtain registration materials, call the Office of the Secretary of State at (406) 444-3665, or visit their website at <http://www.sos.state.mt.us>

## **2.22. REJECTION OF BIDS**

The Department reserves the right to reject any and all bids (wholly or in part) which fail to meet the terms, conditions and specifications of the bid package; or, are determined to be not in the Department's best interests; or, for which funding is not available. The Department reserves the right to reject bid proposals, waive technicalities, or advertise for new proposals. Bids will be firm for 30 days, unless stated otherwise in the text of this invitation for bid.

A written or verbal explanation regarding rejected bids may be obtained by contacting the Purchasing Services Bureau (406-444-9282) in Helena.

### **2.23. SEPARABILITY CLAUSE**

A declaration by any court, or any other binding legal source, that any provision of the contract is illegal and void shall not affect the legality and enforceability of any other provision of the contract, unless the provisions are mutually dependent.

### **2.24. SHIPPING**

Supplies shall be shipped prepaid, F.O.B. Destination, unless the contract specifies otherwise.

### **2.25. SOLICITATION DOCUMENT EXAMINATION**

Vendors shall promptly notify the Department of any ambiguity, inconsistency or error, which they may discover upon examination of a solicitation document.

### **2.26. TAX EXEMPTION**

The State of Montana is exempt from Federal Excise Taxes (#81-0302402).

### **2.27. TECHNOLOGY ACCESS FOR BLIND OR VISUALLY IMPAIRED**

Contractor acknowledges that no state funds may be expended for the purchase of information technology equipment and software for use by employees, program participants or members of the public unless it provides blind or visually impaired individuals with access, including interactive use of the equipment and services, that is equivalent to that provided to individuals who are not blind or visually impaired. (Mont. Code Ann. § 18-5-603.) Contact the State Procurement Bureau at (406) 444-2575 for more information concerning nonvisual.

### **2.28. TERMINATION OF CONTRACT**

Unless otherwise stated, the Department may, by written notice to the Contractor, terminate the contract in whole or in part at any time the Contractor fails to perform the contract.

### **2.29. UNAVAILABILITY OF FUNDING**

The contracting agency, at its sole discretion, may terminate or reduce the scope of the contract if available funding is reduced for any reason. (Mont. Code Ann. § 18-4-313 (3).)

### **2.30. UNIT PRICE**

Unless otherwise specified, the unit price for each line items must be provided in the appropriate space within the bid document: This shall be known as the "base" bid. The unit price for multiple items must be extended to reflect the total price for the quantity of items requested. Unless otherwise specified, the unit price shall prevail.

### **2.31. U.S. FUNDS**

All prices and payments must be in U.S. dollars.

### **2.32. VENUE**

This solicitation is governed by the laws of Montana. The parties agree that any litigation concerning this bid, request for proposal, limited solicitation, or subsequent contract, must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees. (Mont. Code Ann. § 18-1-401.)

### 2.33. WARRANTIES

The Contractor warrants that items offered will conform to the specifications requested, to be fit and sufficient for the purpose manufactured, of good material and workmanship and free from defect. Items offered must be new and unused and of the latest model or manufacture, unless otherwise specified by the State. They shall be equal in quality and performance to those indicated herein. Descriptions used herein are specified solely for the purpose of indicating standards of quality, performance and/or use desired. Exceptions will be rejected.

## 3.0 GENERAL INFORMATION AND REQUIREMENTS

Provide and deliver, F.O.B. to the Department of Transportation (Department) locations as listed herein, reflective glass beads in keeping with the terms, conditions, specifications and requirements detailed herein.

Glass beads shall be delivered by the successful vendor on an "as needed" basis at a firm cost per pound as established by this solicitation during the contract period from date of signed contract through December 31, 2010.

### 3.1. PRICE ADJUSTMENTS NEGOTIATED BASED ON CHANGES IN VENDOR'S COSTS

Price adjustments may be permitted at the time of contract renewal through a process of negotiation with the Vendor and the Department. Any price increases must be based on demonstrated industry-wide or regional increases in the Vendor's costs. Publications such as the Federal Bureau of Labor Statistics and the Consumer Price Index (CPI) for all Urban Consumers may be used to determine the increased value.

### 3.2. INSURANCE REQUIREMENT

- 3.2.1. General Requirements:** The Vendor shall maintain for the duration of the contract, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability which may arise from or in connection with the performance of the work by the Vendor, agents, employees, assigns, or subcontractors. The insurance shall cover such claims as may be caused by any negligent act or omission.
- 3.2.2. Primary Insurance:** The Vendor's insurance coverage shall be primary insurance as respect to the State, its officers, officials, employees, and volunteers and shall apply separately to each project or location. Any insurance or self-insurance maintained by the State, its officers, officials, employees or volunteers shall be in excess of the Vendor's insurance and shall not contribute with it.
- 3.2.3. Specific Requirements for Commercial General Liability:** The Vendor shall purchase and maintain Occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of \$1,000,000 per occurrence and \$2,000,000 aggregate per year to cover such claims as may be caused by any act, omission, or negligence of the Vendor or its officers, agents, representatives, assigns or subcontractors.
- 3.2.4. Additional Insured Status:** The Montana Department of Transportation, its officers, officials, employees, and volunteers are to be covered as additional insureds; for liability arising out of activities performed by or on behalf of the Vendor, including the insured's general supervision of the Vendor; products and completed operations; premises owned, leased, occupied, or used.

- 3.2.5. Specific Requirements for Automobile Liability:** The Vendor shall purchase and maintain coverage with limits of \$500,000 per person (personal injury), \$1,000,000 per occurrence (personal injury), and \$100,000 per occurrence (property damage), OR combined single limits of \$1,000,000 per occurrence to cover such claims as may be caused by any act, omission or negligence of the Vendor or its officers, agents, representatives, assigns or subcontractors.
- 3.2.6. Additional Insured Status:** The Department, its officers, officials, employees, and volunteers are to be covered as additional insureds for automobiles leased, hired, or borrowed by the Vendor.
- 3.2.7. Deductibles and Self-Insured Retentions:** Any deductible or self-insured retention must be declared to and approved by the Department. At the request of the Department either: (1) The insured shall reduce or eliminate such deductibles or self-insured retention's as respect to Department, its officers, officials, employees, and volunteers; or (2) The Vendor shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.
- 3.2.8. Certificate of Insurance/Endorsements:** Insurance must be placed with an insurer with a Best's rating of no less than A-. The certificate must also include the Department's purchase order number or contract number. This insurance must be valid for the entire contract period. The Montana Department of Transportation, Purchasing Services Bureau, PO Box 201001, Helena, Montana 59620-1001 must receive all required certificates and endorsements within 10 days from the date of Request of Documents Notice before a contract or purchase order will be issued. Work may not commence until a contract or purchase order is in place. The Vendor must notify the Department immediately, of any material change in insurance coverage, such as changes in limits, coverage, change in status of policy, etc. The State reserves the right to require complete copies of insurance policies at all times.

### **3.3. BID/PROPOSAL SECURITY – SURETY BONDS ONLY**

Each bid/proposal must be accompanied by bid proposal security based upon 10% of the total bid/offer. This security must be in the form of a surety bond licensed in Montana with a Best's rating of no less than A-. The surety bond must be supplied on the form designated by the State of Montana. The required form may be found at <http://gsd.mt.gov/procurement/forms.asp> and entitled "Bid or Proposal Bond." THE ORIGINAL FORM MUST BE PROVIDED. FACSIMILE, ELECTRONIC, OR PHOTOCOPIES ARE NOT ACCEPTABLE.

### **3.4. CONTRACT PERFORMANCE SECURITY – SURETY BONDS ONLY**

The Vendor must provide contract performance security based upon 100% of the contract total. This security must be in the form of a surety bond licensed in Montana with a Best's rating of no less than A-. The surety bond must be supplied on the form designated by the State of Montana. The required form may be found at <http://gsd.mt.gov/procurement/forms.asp> and entitled "Contract Performance Bond." THE ORIGINAL FORM MUST BE PROVIDED. FACSIMILE, ELECTRONIC, OR PHOTOCOPIES ARE NOT ACCEPTABLE.

The contract performance security must be provided to the State of Montana within 10 working days from the Request for Documents Notice. This security must remain in effect for the entire term of the contract. A new surety bond must be issued to the State of Montana if this contract is renewed.

The original surety bond form must be provided to the following address: Purchasing Services Bureau, P.O. Box 201001, Helena, MT 59620-1001.

### **3.5. CONTRACT EXTENSION**

This contract may, upon mutual agreement, be extended in one (1) year increments for a period not to exceed a total of three (3) years, [two (2) additional years]. This extension is contingent upon legislative appropriations and in no case may a contract run longer than three (3) years. Extension of this contract will be possible only by way of duplication of the terms, conditions and prices of the original existing contract.

Any intention to extend the contract must be initiated in writing prior to the termination date of the existing contract or termination date of a contract, which has been previously extended.

### **3.6. CANCELLATION**

This contract may be canceled by the Department for non-performance on the part of the vendor.

Upon receipt of written notice of non-performance from the Department, the vendor shall cure the specified item(s) of non-performance within 24 hours.

Failure on the part of the vendor to cure the specified item(s) of non-performance within 24 hours will be grounds, at the Department's discretion, for immediate termination of the contract.

The final decision as to whether or not the item(s) of non-performance has been cured will be made by one of those individuals listed under Section 3.10

OR

This contract may be canceled by the Department when 3 out of 6 consecutive samples of beads submitted for testing fail to pass minimum specifications.

### **3.7. PURCHASE FROM ANOTHER SOURCE**

If for any reason whatsoever the vendor refuses or is unable to timely supply reflective glass beads to the Department during the contract period, the Department reserves the right to purchase product from another source. Liquidated damages as described under Section 4.3 herein may also be assessed at the Department's discretion.

### **3.8. PRODUCT CERTIFICATION AFFIDAVIT**

Included with each bid response submitted, the vendor is required to provide a Product Certification Affidavit, stating that reflective glass beads supplied as a result of the contract will in fact meet or exceed the specifications detailed under Section 6.0 and 7.0 of this bid document. Failure to include the required affidavit with a bid may result in bid disqualification.

### **3.9. CONSIDERATION**

The Department, in consideration of the firm price(s) per pound bid herein by the vendor, agrees to purchase a minimum of 1,000 pounds of reflective beads under the contract.

### **3.10. CONTRACT ADMINISTRATION**

The contract resulting from award of this bid shall be solely administered by the Supervisor of the Purchasing Services Section, or his/her formally assigned designee, whose names, phone numbers and e-mail addresses appear below.

Rob Stapley, Supervisor  
Purchasing Services Section  
(406) 444-6365  
[rostapley@mt.gov](mailto:rostapley@mt.gov)

Kim Stewart, Purchasing Agent  
Purchasing Services Section  
(406) 444-9282  
[kstewart@mt.gov](mailto:kstewart@mt.gov)

#### **4.0 PRODUCT ORDERING, TRANSPORTATION REQUIREMENTS, LIQUIDATED DAMAGES, SAMPLING AND PRETESTING, REJECTION OF PRODUCT**

##### **4.1. PRODUCT ORDERING**

Reflective beads will be ordered by facsimile by a Department employee or employees, to be named in the resulting purchase order for all locations listed in Section 8.1.

The facsimile order will include:

- 1) A location designation;
- 2) A quantity;
- 3) A required delivery time frame of fifteen (15) working days within which the beads must be delivered;
- 4) The name of the person placing the order;
- 5) Contact person & phone number;
- 6) Date order was sent.

Upon receipt of the facsimile order, the vendor will begin a delivery process that will make product available, F.O.B. destination at the appropriate location within the 15 working days time frame.

**Note:** The vendor may combine quantities ordered by more than one F.O.B. location to maximize freight considerations. In return for the ability to combine quantities, the vendor agrees to provide product to each F.O.B. location involved within the 15 working days time frame as discussed above, or to communicate with the contract administrator and to negotiate the most mutually acceptable delivery schedule possible which will also maximize freight considerations.

##### **4.2. TRANSPORTATION REQUIREMENTS**

By signing this document, the vendor agrees to be solely responsible for transportation of product as ordered per Section 4.1 above, from the vendor's plant to one or more of the locations listed in Section 8.1.

The Department will supply forklifts with which to unload the beads from "flatbed" trucks when they are delivered. If the vendor ships the beads in enclosed trailers, the Department is under no obligation to provide any equipment or manpower necessary to unload the beads.

Additionally, the vendor agrees that during the contract period as defined in Section 3.5, transportation shall be constantly available so that product orders placed by the Department on an "as needed" basis may be delivered in a timely manner as required by the ordering party.

Failure to deliver product, at the Department's discretion, may result in assessment of liquidated damages as described below.

##### **4.3. LIQUIDATED DAMAGES**

The Department reserves the right to assess liquidated damages in the amount of \$500 per "occurrence" plus (+) \$50.00 per day for every working day over the fifteen (15) working days that the delivery is late for failure to comply with the terms, conditions and requirements as listed herein. This sum may be deducted from vendor payment for failure to deliver/perform as specified. No premium will be awarded to the vendor for delivery in advance of the specified time.

For purposes of this contract only, an "occurrence" shall be defined as a situation where product is correctly ordered in writing per Section 4.1, but is not delivered by the vendor within the 15 working days time frame; and/or mutually acceptable communication and delivery date negotiation has not taken place as per Section 4.2.

#### **4.4. SAMPLING AND PRETESTING**

The Montana Department of Transportation, Materials Lab maintains a Qualified Products List (QPL) for glass beads.

If the beads have qualified for the QPL, the pre-testing requirements of this contract will defer to the random testing requirements of the QPL list.

If the beads are not listed on the QPL then the sampling and pretesting procedures detailed herein will apply.

The MDT reserves the right to sample materials at any time.

##### **4.4.1. Sampling**

Before a shipment of beads leaves the vendors plant, a sample must be taken from that shipment.

The sample must be physically taken by an independent individual or organization to be approved by the Department. Upon notice of award, the vendor will provide the name, address and phone number of the individual or organization designated to take the sample. The department will then have five (5) working days to either approve or disapprove the vendors' designee. This will be done in writing.

##### **4.4.2. Air Freight Requirement**

After the sample is taken, the sample shall be immediately air freighted to the following address by the vendor.

Montana Department of Transportation  
Materials Bureau Lab  
2701 Prospect Avenue  
Helena, MT 59620

Each sample air freighted shall be accompanied by the following information.

- a) Date sample taken
- b) Lot number designation
- c) Lot quantity
- d) Intended F.O.B. point of shipment from which sample is taken
- e) Full Name of person taking sample

The vendor shall be solely responsible for all costs associated with the sample taking and air freighting of samples to the Department in Helena.

##### **4.4.3. Pretesting**

Upon arrival in Helena, each sample will be tested in the Department's Materials Bureau Laboratory. Samples must be received in Helena at least seven (7) days prior to vendors anticipated ship date.

The vendor will be notified by phone concerning the outcome. If the bead sample meets specifications, approval to ship will be given by lot number and F.O.B. location.

If the bead sample fails, this information plus lot number and F.O.B. location will be provided. A written copy of the report will also be forwarded to the vendor.

#### **4.4.4. Pretesting Not a Waiver**

The sampling and pretesting procedure detailed above does not constitute final acceptance of any bead shipment and should not be considered a waiver of the Department's right to test (and accept or refuse) each shipment after physical delivery occurs.

Delivery of beads without sampling and pretesting as described herein may result in refusal at the appropriate F.O.B. location.

#### **4.5. REJECTION OF PRODUCT**

After each product delivery, random samples may be taken and tested at the Department's Laboratory for specification compliance.

If random sample testing indicates that the product does not meet specifications, all products from that delivery (lot) will be rejected.

The vendor will be notified in writing of a rejection situation.

The cost of loading and return delivery connected with a product rejection shall be solely the responsibility of the vendor. The vendor agrees to remove any and all rejected material from the Department's property within fifteen (15) working days after the date of written notification. After the material has been rejected, the Department is under no obligation to store the materials inside a building. This material may be stored outside in the weather if there is no room for inside storage.

### **5.0 PACKAGING AND DELIVERY REQUIREMENTS**

Packing shall be in 1,800-pound returnable bags. Bags shall be approximately 34" x 34" x 36" returnable polypropylene "chase type" bags. The material shall be a minimum 6½-ounce weave material. The bag shall have a fully opened closure skirt on top with a discharge chute 30" long with an approximate 10" diameter discharge opening. The discharge opening shall have a #6 nylon cord. The bag shall have four (4) lifting loops sized to allow lifting from a central lift hook when the bag is full.

The bag shall have an approximately 40" x 40" x 88" minimum 3 mil polyethylene inner liner assembled to prevent the liner from slipping and clogging the discharge chute during loading operations. The liner bag shall be of one (1) piece construction with open top and closed bottom to allow easy opening of the liner through the discharge chute.

The bag will be filled by a method that allows easy access to the discharge chute when the bag is lifted off the pallet. Placement of the discharge chute between the inner liner and the outer bag will not be allowed.

Bags will be delivered on pallets. The bags shall be shipped one (1) only per pallet. The pallets and bags shall be stackable two (2) high. Bags will be wrapped with a minimum 5-mil shrink-wrap material. The bag shall be strapped two (2) ways to the pallet with nylon or polypropylene strapping. Straps shall be positioned 90 degrees from each other.

Bags shall be clearly marked as to whether they contain coated or non-coated beads.

This packaging shall be known as "Super Sacks."

### **6.0 REFLECTIVE GLASS BEADS SPECIFICATIONS**

Moisture Proof adherence coated glass beads provided under this contract shall be spherical in shape and transparent with smooth, lustrous surfaces. The beads, as delivered, shall be free from extraneous materials and bead "clumps" which cannot be broken up easily in the process of handling and distribution to the stripe.



## 6.1. DETAIL SPECIFICATIONS

### 6.1.1. Imperfections

The glass beads shall include not more than 25 percent irregularly shaped particles when tested according to ASTM D-1155. The beads shall be free of scratches, pits, milkiness, dark particles, and excessive air bubbles.

### 6.1.2. Chemical Stability

The glass beads shall withstand refluxing in distilled water in a Soxhlet extractor for 90 hours without noticeable dulling of surface luster and not more than 2.5% loss in weight.

### 6.1.3. Color

The glass beads shall be colorless to the extent that they do not impart a noticeable daytime hue to white pavement markings.

### 6.1.4. Gradation

The glass beads shall meet the following gradation requirements when tested in accordance with the Standard Method of Test for Sieve Analysis of Glass Spheres, ASTM D-1214.

| SIEVE NUMBER   | PERCENT PASSING        |                       |
|----------------|------------------------|-----------------------|
|                | MONTANA TYPE 1 (M-247) | MONTANA TYPE 2 (P-40) |
| 20 (0.850 mm)  | 100%                   | 90-97%                |
| 30 (0.600 mm)  | 75-95%                 | 50-75%                |
| 40 (0.425 mm)  | --                     | 15-45%                |
| 50 (0.300 mm)  | 15-35%                 | 0-15%                 |
| 80 (0.180 mm)  | --                     | 0-5%                  |
| 100 (0.150 mm) | 0-5%                   | --                    |

## 7.0 LIST OF LOCATIONS (F.O.B. and "BILL TO" ADDRESSES) AND ESTIMATED USAGE PROJECTIONS PER LOCATION

By providing estimated usage projections, the Department makes no commitment, either stated or implied, to purchase any specific amount of reflective glass beads in excess of 1,000 pounds from the vendor.

Estimated usage projections are provided as general information only. Actual need for the contract period may fall short of or exceed estimated usage figures listed herein.

The vendor is encouraged to contact the Contract Administrator as necessary throughout the contract period and to request "updates" concerning the estimated usage projections (provided herein) directly. The vendor is cautioned not to make product-related decisions involving the Department based on information obtained from a source or sources other than the Contract Administrator.

**7.1 FOB AND BILL TO**

|   |   |
|---|---|
| Department of Transportation<br>2100 W. Broadway<br>P.O. Box 7039<br>Missoula, MT 59807-7039<br>Gary Hornseth<br>(406) 523-5800<br><u>Estimated Yearly Usage 432,000 lbs (P-40)</u>   | Montana Department of Transportation<br>85 5 <sup>th</sup> Ave North<br>PO Box 7308<br>Kalispell MT 59904-0308<br>Stephen Herzog<br>(406) 751-2000<br><u>Estimated Yearly Usage: 180,000 lbs (P-40)</u> |
| Department of Transportation<br>3751 Wynne<br>P.O. Box 3068<br>Butte, MT 59702-3068<br>Kevin Brewer<br>(406) 494-9627<br><u>Estimated Yearly Usage 270,000 lbs (P-40)</u>             | Department of Transportation<br>907 N. Rouse<br>P.O. Box 1110<br>Bozeman, MT 59771-1110<br>Ross Gammon<br>(406) 556-4700<br><u>Estimated Yearly Usage 250,000 lbs (M-247)</u>                           |
| Department of Transportation<br>200 Smelter Ave NE<br>P.O. Box 1359<br>Great Falls, MT 59403-1359<br>Dave Kelly<br>(406) 454-5880<br><u>Estimated Yearly Usage 67,000 lbs (M-247)</u> | Department of Transportation<br>1649 Highway 2 NW<br>Havre MT 59501-3455<br>Dave Hand<br>(406) 262-5500<br><u>Estimated Yearly Usage 90,000 lbs (P-40)</u>  |
| Department of Transportation<br>200 E HWY 25<br>Wolf Point, MT 59201-9001<br>Bill Juve<br>(406) 653-6700<br><u>Estimated Yearly Usage 83,000 lbs (P-40)</u>                           | Department of Transportation<br>217 N. 4th<br>P.O. Box 460<br>Miles City, MT 59301-0460<br>Michael Patch<br>(406) 233-3600<br><u>Estimated Yearly Usage 44,000 lbs (P-40)</u>                           |
| Department of Transportation<br>424 Morey<br>P.O. Box 20437<br>Billings, MT 59104-0437<br>Jim Stevenson<br>(406) 657-0217<br><u>Estimated Yearly Usage 45,000 lbs (P-40)</u>          | Department of Transportation<br>1620 Airport Rd<br>P.O. Box 491<br>Lewistown, MT 59457-0491<br>Doug Lutke<br>(406) 538-1300<br><u>Estimated Yearly Usage 120,000 lbs (P-40)</u>                         |

**8.0 QUOTE SECTION**

Provide and deliver F.O.B. destination per location listed under Section 8.1, reflective glass beads in "Super Sacks" on an "as-needed" basis for the contract period for the firm cost per pound of:

**8.1 Montana Type 1 (M-247) Reflective Glass Beads**

Cost per Pound: \$\_\_\_\_\_

**9.2. Montana Type 2 (P-40) Reflective Glass Beads**

Cost per Pound: \$\_\_\_\_\_

**9.0 AWARD PROCESS**

Award will be on a product-by-product basis.

M-247 beads award will be made to the lowest vendor, providing that bid meets all terms, conditions, requirements and specifications as detailed herein, for all F.O.B. locations listed under Section 8.1.

The Department also reserves the right to cancel the project referenced herein if cancellation is deemed to be in the Department's best interest.

**CONDITIONS OF BID DISQUALIFICATION:**

- A) Failure on the part of the vendor to display Invitation for Bid #HWY-309510-KS on the outside of the envelope containing a sealed bid will result in bid disqualification.
- B) Failure to include the required Product Certification Affidavit with the bid may result in bid disqualification.

## HAVE YOU REMEMBERED TO:

- \* Check our website for the latest addendum to the IFB
- \* Sign and return each addendum as required
- \* Review Standard Terms and Conditions
- \* Properly identify return envelope
- \* Sign your bid on the front page
- \* Initial any bid changes you made
- \* Include literature (if required)
- \* Review and complete all requirements listed herein to ensure compliance

MDT attempts to provide accommodations for any known disability that may interfere with a person participating in any service, program or activity of the Department. Alternative accessible formats of this information will be provided upon request. For further information call Kim Stewart at (406) 444-9282 Voice or 1-800-335-7592 TTY or TTY (406) 444-7696.